

APPEAL NUMBER

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated May 6, 2019, in which the ministry determined that, in accordance with section 1 of Schedule C of the Employment and Assistance Regulation (EAR), the appellant was not eligible for coverage of dental fees above the ministry rates for services provided.

**PART D – RELEVANT LEGISLATION**

EAR - Schedule C, sections 1, 4, 4.1, 5 and 6  
Schedule of Fee Allowances - Dentist

**PART E – SUMMARY OF FACTS**

Information before the ministry at reconsideration

The appellant is a dependent child whose family is in receipt of income assistance. The appellant's parent ("the representative") requested dental supplements for the appellant. Pacific Blue Cross (PBC), to which the ministry has delegated its powers, duties and functions respecting dental supplements in accordance with section 34 of the *Employment and Assistance Act*, approved coverage as explained in the following Chart and Notes [excerpt from the reconsideration decision]. The panel notes that the PBC record of service provision is included in the appeal record and is consistent with the Chart.

	Tooth No.	Fee Code	Description	Dentist Fees	PBC Coverage
Date: December 21, December 26, and December 27, 2018					
1	36	23321	Tooth Coloured Restoration / Permanent Tooth / Bonded - Molar / One Surface	\$156.00	*\$124.88
2	75	23512	Tooth Coloured Restoration / Primary Tooth / Bonded - Molar / Two Surfaces	\$186.00	*\$148.93
3	74	23512	Tooth Coloured Restoration / Primary Tooth / Bonded - Molar / Two Surfaces	\$186.00	*\$148.93
4	n/a	02122	Radiograph / Intraoral - Periapical / Twelve Films	\$88.60	*\$70.49
5	85	23511	Tooth Coloured Restoration / Primary Tooth / Bonded - Molar / One Surfaces	\$130.00	*\$104.48
6	53	23411	Tooth Coloured Restoration / Primary Tooth / Bonded - Anterior / One Surface	\$121.00	*\$97.13
7	n/a	01103	Complete Exam and Diagnosis on Permanent Dentition	\$77.13	*\$77.13
8	n/a	11112	Scaling - Two Units	\$64.00	*\$64.00
9	n/a	11101	Polishing	\$27.23	\$27.23
10	n/a	12101	Topical Fluoride Treatment	\$10.61	\$10.61
11	n/a	11117	Scaling - 1/2 Unit	\$15.58	\$15.58
<b>TOTAL:</b>				<b>\$1,062.15</b>	<b>\$889.39</b>

**Notes:**

- \* Certified specialists, including oral surgeons may receive an additional 10% on services billed from the Schedule of Fee Allowances – Dentist. As your dentist is a specialist, you are eligible for the additional 10% as outlined above (see line items 1 through 8).
- Regarding fee code 02122 (line item 4): As per a note in the Schedule of Fee Allowances - Dentist, radiographs are limited to \$70.49 every 2 calendar years for children under 19 years of age. Therefore, although the ministry can exceed the rate specified in Schedule of Fee Allowances – Dentist as your dentist is a specialist, coverage for fee code 02122 cannot exceed \$70.49.
- Regarding fee code 11112 (line item 8): Your dentist has charged \$64.00 for this treatment. Therefore, you have been provided coverage of \$64.00 as opposed to a full 10% over the ministry rate set out in the Schedule of Fee Allowances – Dentist.

Reconsideration of the decision to deny coverage at the dentist's rates for dental services #1 through #6 was requested. In support of this request, the representative provided a 7-page submission dated April 23, 2019, in which she questions both the correctness of PBC's determination of the "over-charges" by the dentist and the denial to pay any amount for some dental services. The representative also notes that in two provinces where she previously resided complete coverage was provided when she was receiving social assistance and that she did not have to wait for pre-approval because the coverage was complete. Additionally, the dentist was advised by PBC

that coverage would be 100% and the appellant contacted an agent who advised that all basic dental services are 100% covered. The representative does not recall if she was told to get pre-approval but was unconcerned as both she and the dentist had been told that coverage would be 100%.

The representative also provided a 1-page submission dated April 30, 2019, in which she notes that most of the dental services [for the appellant and some of the representative's other children] were provided in late December [2018]. In early February, when the representative took another of her children to the dentist, the dentist did not mention anything about amounts owing, or unpaid. The appellant believes that it was not until late February that the dentist was advised that he would not be fully paid by PBC. If the appellant had known earlier, she would have requested pre-approval for services.

Information provided on appeal

The appellant's Notice of Appeal (NOA) dated May 14, 2019, which did not include new evidence.

Prior to the hearing, the representative emailed a 3-page letter, dated June 7, to the Tribunal. The letter includes argument and further explanation of the timeframe and circumstances of the provision of the dental services to her children, with the representative noting that she was quite desperate to get the dental work completed before the new year, when a new two-year cycle of dental funding would begin.

The ministry did not object to the admission of the additional information. The panel determined that the additional information either reiterated or provided further detail in support of information before the ministry at reconsideration and therefore admitted the additional information in accordance with section 22(4) of the Employment and Assistance Act.

Neither the appellant nor the representative attended the hearing. After confirming delivery of the Notice of Hearing to the appellant, the hearing proceeded in accordance with section 86(b) of the EAR.

At the hearing, the ministry explained the reconsideration decision but did not provide additional evidence.

The arguments of both parties are set out in Part F of this decision.

**PART F – REASONS FOR PANEL DECISION****Issue on Appeal**

The issue on appeal is whether the ministry's decision to deny the appellant coverage for dental services above ministry rates was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

**Relevant Legislation****EAR****Dental supplements**

**68** The minister may provide any health supplement set out in section 4 [*dental supplements*] of Schedule C to or for

(a) a family unit in receipt of income assistance, if

(i) the family unit includes a person with persistent multiple barriers to employment, or

(ii) the health supplement is provided to or for a person in the family unit who is under 19 years of age...

**Schedule C - Health Supplements****Definitions**

**1** In this Schedule....

"**basic dental service**" means a dental service that

(a) if provided by a dentist,

(i) is set out in the Schedule of Fee Allowances — Dentist that is effective September 1, 2017 and is published on the website of the ministry of the minister, and

(ii) is provided at the rate set out in that Schedule for the service and the category of person receiving the service....

**Dental supplements**

4 (1) In this section, "period" means

- (a) in respect of a person under 19 years of age, including a child in a home of a relative, a 2 year period beginning on January 1, 2017 and on each subsequent January 1 in an odd numbered year....

(1.1) The health supplements that may be paid under section 68 [dental supplements] of this regulation are basic dental services to a maximum of

- (a) \$2 000 each period, if provided to a person under 19 years of age....

**Schedule of Fee Allowances – Dentist [rates for services provided for children are in the right-side column]**

**Specialist Referrals**

Certified specialists, including oral surgeons may receive an additional 10% on services billed from the *Schedule of Fee Allowances – Dentist*. The Ministry contractor must have a record of the specialty on their billing system and the referring practitioner must be indicated on the claim form. If either of these is missing, the claim will be refused or reduced. If the referring practitioner is a Medical Doctor, please indicate this clearly on the claim form. As fee item 01601 – Examination and Diagnosis, Surgical by Oral Surgeon is restricted for use by Oral Surgeons only the additional 10% will not be applied to this fee item.

**RADIOGRAPHS**

**Note:**

Radiographs are limited to:

- \$54.71 every 2 calendar years for adults, and
- \$70.49 every 2 calendar years for children under 19 years of age.

A complete series, fee items 02101 or 02102 or thirteen films, fee item 02123, will be paid only once every 3 years. Fee item 02601, panoramic radiograph is excluded from the two year radiograph limit for children.

**Complete Full Mouth Series (including bitewings)**

02101	Minimum 12 films	50.52	65.74
02102	Minimum 16 films	54.71	70.49

**Intraoral – Periapical**

02111	Single Film	9.95	12.84
02112	Two Films	13.59	17.59
02113	Three Films	17.31	22.41
02114	Four Films	21.04	27.23

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02115	Five Films	24.76	32.13
02116	Six Films	28.44	36.95
02117	Seven Films	32.12	41.63
02118	Eight Films	35.88	46.52
02119	Nine Films	39.52	51.35
02120	Ten Films	43.31	56.10
02121	Eleven Films	47.11	60.92
02122	Twelve Films	50.90	65.74
02123	Thirteen Films	54.71	70.49

TOOTH COLOURED RESTORATIONS

**Note:** Maximum fee allowance is five surfaces or the dollar equivalent per tooth in a two-year period. Tooth numbers are required. When billing for restorations, the total number of surfaces restored in that sitting on that tooth should be billed cumulatively. Where two different filling materials are used, these restorations may be billed separately.

Tooth Coloured – Permanent Teeth

<b>Bonded - Anterior</b>			
23111	One surface	75.47	90.52
23112	Two surfaces	90.56	109.07
23113	Three surfaces	114.46	137.27
23114	Four surfaces	141.99	171.40
23115	Five surfaces (maximum)	171.65	202.57
<b>Bonded - Bicuspid</b>			
23311	One surface	87.91	104.62
23312	Two surfaces	122.65	144.69
23313	Three surfaces	144.04	176.60
23314	Four surfaces	177.11	216.66
23315	Five surfaces (maximum)	203.58	239.67
<b>Bonded - Molars</b>			
23321	One surface	94.21	113.53
23322	Two surfaces	144.04	173.63
23323	Three surfaces	174.08	209.24
23324	Four surfaces	209.19	250.80
23325	Five surfaces (maximum)	243.18	297.54

Tooth Coloured – Primary Teeth

		<b>Adult</b>	<b>Child</b>
<b>Bonded - Anterior</b>			
23411	One surface	69.63	88.30
23412	Two surfaces	88.21	113.53
23413	Three surfaces	98.30	126.14
23414	Four surfaces	112.33	144.69
23415	Five surfaces (maximum)	127.50	164.72
<b>Bonded - Molars</b>			
23511	One surface	78.43	94.98
23512	Two surfaces	111.12	135.39
23513	Three surfaces	128.95	158.05

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23514	Four surfaces	153.98	188.47
23515	Five surfaces (maximum) <u>Posts</u>	179.08	219.63

**Note:**

Limited to once per tooth in a 5 year period and only paid in conjunction with a restoration.

**Panel Decision**

On behalf of the appellant, the representative argues that it is unfair that full coverage of the dentist's fees is not provided given that the representative had received confirmation from both the dentist and the ministry that coverage would be 100%. Additionally, it should be the dentist who finds out what services are covered before providing services and it not the fault of the appellant or representative.

The ministry's position is that "basic dental service" is defined as a service that is set out in the Schedule of Fee Allowances – Dentist at the rate set out in that Schedule, noting that a dentist who is a specialist may receive an additional 10%. Therefore, the ministry cannot provide coverage for dental services in excess of the limits and amounts set out in the Schedule of Fee Allowances – Dentist.

Ministry policy places the onus on the dentist to determine the rate at which each dental service will be paid. While the panel acknowledges that there has been miscommunication and/or lack of communication in this case, which might have been due to the short window of time within which the dental services were required, because "basic dental service" is defined in section 1 of Schedule C of the EAR as a service that is both set out and provided at the rate in the Schedule of Fee Allowances – Dentist, the ministry can only provide coverage for dental services as described in that Schedule.

In the appellant's circumstances, the Schedule of Fee Allowances – Dentist limits the amount that may be paid for radiographs to \$70.49 in a 2-calendar year period. As the appellant was provided coverage in this amount, which included the 10% specialist increase up to \$70.40 from \$65.74, the ministry reasonably determined that there was no remaining coverage for the radiographs. Respecting the other dental services at issue, restorations with codes 23321, 23512 and 23411, the ministry has applied the 10% specialist top-up because the service is provided by a specialist, but no additional coverage is allowed.

**Conclusion**

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for coverage for dental services beyond the limits of coverage provided in the Schedule of Fee Allowances – Dentist was a reasonable application of the legislation in the circumstances of the appellant, and therefore confirms the decision. The appellant is not successful on appeal.

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**PART G – ORDER**

THE PANEL DECISION IS: (Check one)       UNANIMOUS       BY MAJORITY

THE PANEL       CONFIRMS THE MINISTRY DECISION       RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister  
for a decision as to amount?       Yes       No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**

*Employment and Assistance Act*

Section 24(1)(a)  or Section 24(1)(b)

and

Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/06/12

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/12

PRINT NAME

Joseph Rodgers

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/06/12